

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

- The bill establishes legislative intent to encourage all state agencies and local agencies to assist various public and private entities in securing public access to linear corridors that are suitable for trails.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 260, F.S., is entitled as the Recreational Trails System. In 1979, the Legislature enacted the Florida Greenways and Trails Act setting forth the State’s goal of developing a statewide system of greenways and trails for recreational and conservation purposes.¹ The establishment of these greenways and trails serves to implement the concepts of ecosystem management while providing recreational opportunities to include, but not be limited to, horseback riding, hiking, bicycling, canoeing, jogging, and historical and archaeological interpretation. Counties, cities, and special districts are encouraged to participate in the development of greenways and trails.²

In 1983, the Florida National Scenic Trail (“FNST”) was added to the national trails system created by the National Trails System Act, and the U.S. Secretary of Agriculture and the Secretary of the Interior were authorized to administer those segments of the trail located in national forests and national parks. Although portions of the FNST are administered by the federal government, land over which the trail passes may be publicly or privately held.³ To date, the Florida Trails Association, a private, volunteer-based organization, has been primarily responsible for the development and maintenance of the FNST, in cooperation with the U.S. Forestry Service and many public land managers whose land the FNST crosses.

Upon completion, the FNST will extend 1,300 miles from Big Cypress National Preserve in South Florida through Florida’s three national forests to Gulf Islands National Seashore in the western panhandle, crossing or touching 42 of Florida’s 67 counties.⁴

It is the intent that designated greenways and trails be located on public lands and waterways and be subject to the written agreement of the private land owner, when located on private lands. Designated greenways and trails located on public lands or waterways or on private lands may or may not provide public access, as agreed by the Department of Environmental Protection (DEP) or the landowner.⁵ Section 260.013(3), F.S. defines “Designation” to mean the identification and inclusion of specific lands and waterways as part of the statewide system of greenways and trails pursuant to a formal public

¹ Ch. 260, F.S.

² s. 260.012(1) and (2), F.S.

³ <http://www.fs.fed.us/recreation/programs/trails/index.shtml>

⁴ <http://www.fs.fed.us/recreation/programs/trails/index.shtml>

⁵ s. 260.012(3), F.S.

process, including the specific written consent of the landowner. When the department determines that public access is appropriate for greenways and trails, written authorization must be granted by the landowner to the department permitting public access to all or a specified part of the landowner's property. The department's determination shall be noticed pursuant to section 120.525, F.S., and the department shall also notify the landowner by certified mail at least 7 days before any public meeting regarding the intent to designate. Section 260.0125, F.S., allows liability protection to private landowners who allow their lands to be used by the public for trail purposes; however, this liability protection is not available if they charge a fee.

Section 260.0141, F.S., establishes the Florida Greenways and Trails Program within the DEP to facilitate the establishment of the statewide system of greenways and trails, and provides that such greenways and trails be acquired pursuant to the Act.

Section 260.0142, F.S., creates the Florida Greenways and Trails Council within the DEP. The purpose of the Council is to advise the DEP in the execution of its duties with respect to the establishment of greenways and trails pursuant to the Act. The Council is composed of 21 members as follows:

FLORIDA GREENWAYS & TRAILS COUNCIL (21 MEMBERS)	TERM LIMITS
Five members appointed by the Governor. <ul style="list-style-type: none"> • Two members representing the trail user community.* • Two members representing the greenway user community.* • One member representing private landowners. 	Initial appointments: <ul style="list-style-type: none"> • Two members for 2 year terms • Three members for 1 year terms <i>Note: Subsequent appointments for 2-year terms.</i>
Three members appointed by the President of the Senate. <ul style="list-style-type: none"> • One member representing the trail user community.* • Two members representing the greenway user community.* 	Initial appointments: <ul style="list-style-type: none"> • Two members for 2-year terms • One member for 1-year term. <i>Note: Subsequent appointments for 2-year terms.</i>
Three members appointed by the Speaker of the House of Representatives. <ul style="list-style-type: none"> • Two members representing the trail user community.* • One member representing the greenway user community.* 	Initial appointments: <ul style="list-style-type: none"> • Two members for 2-year terms • One member for 1-year term. <i>Note: Subsequent appointments for 2-year terms.</i>
Secretary of DEP or a designee.	Until Replaced
Executive Director of the Fish & Wildlife Conservation Commission or a designee.	Until Replaced
Secretary of Department of Community Affairs or a designee.	Until Replaced
Secretary of Department of Transportation or a designee.	Until Replaced
Director of the Division of Forestry of the Department of Agriculture and Consumer Services or a designee.	Until Replaced
Director of Historical Resources of the Department of State or a designee.	Until Replaced
Representative of the water management districts.	1- year term.
Representative of a federal land management agency.	Until Replaced
Representative of the regional planning councils.	Single 2-year term
Representative of local governments	Single 2-year term.

Those eligible to represent the trail user community on the Council will be chosen from paved trail users, hikers, off-road bicyclists, paddlers, equestrians, disabled outdoor recreational users, and commercial recreational interests. Those eligible to represent the greenway user community on the Council will be chosen from conservation organizations, nature study organizations, and scientists and university experts.

The Council is authorized to contract for and to accept gifts, grants, or other aid from the U.S. Government or any person or corporation. The Council's primary duties include recommending priorities for critical links in the Florida Greenways and Trails System, reviewing and recommending applications for acquisition under the Florida Greenways and Trails Program, providing funding recommendations and promotion of private landowner incentives, and recommending projects to be acquired. Currently no member may serve on the Council for more than two consecutive terms.⁶

All projects are acquired in accordance with the acquisition procedures established under chapter 259, F.S., except that the DEP may use the appraisal procedure used by the Department of Transportation to acquire transportation rights-of-way. When a parcel of land is valued at \$100,000 or less and the DEP finds that the costs of obtaining an outside appraisal are not justified, an appraisal prepared by the DEP may be utilized.

Section 260.016, F.S., establishes the general powers of the DEP as it relates to greenways and trails. One power allows the DEP to publish and distribute maps of designated greenways and trails. The generalized map focuses on the area designated, location of public access sites and other points of interest to enhance the recreational opportunities of the public. Another power allows DEP from time to time to provide additions to the statewide saltwater circumnavigation trail. The DEP is also responsible for establishing access routes and related public use of the facilities along greenways and trails which will not interfere with the nature and purpose of the greenway or trail. This section also provides that the DEP evaluates lands for the acquisition of greenways and trails and compiles a list of suitable corridors, greenways, and trails ranking them in order of priority for proposed acquisition. Currently, the water management districts do not identify public access to the FNST in its workplan development.

To further enhance the development of greenways and trails, section 378.036(6), F.S. as amended by chapter 2003-423, Laws of Florida, authorizes the Florida Wildlife Federation, Audubon, Florida, and Rails-to-Trails Conservancy in partnership with the Florida Phosphate Council to form a nonprofit corporation for the purpose of assisting in the development of recreational opportunities on lands mined for phosphate in the state. Section 380.507, F.S., authorizes the Florida Communities Trust to provide public access or public facilities in local communities to protect the natural environment.

Effect of Proposed Changes

The bill renames chapter 260, F.S., to be entitled the "Florida Greenways and Trails Act" to more accurately reflect the function of the program, and amends section 260.011, F.S., to have sections 260.011 – 260.018, F.S., be known by the "popular name" of the "Florida Greenways and Trails Act."

Section 260.012, F.S., is amended to broaden the legislative intent of greenways and trails activities to include equestrian activities previously limited to horseback riding. The bill adds nongovernmental organizations to counties, cities, and special districts who are encouraged to promote the development of greenways and trails. The bill expands legislative intent to recognize the FNST as Florida's official statewide nonmotorized trail from the Florida Panhandle to the Everglades and the Florida Keys, an approximate length of more than 1,400 miles to include the following:

- The Legislature recognizes the major contributions made in furtherance of the establishment of the FNST by the U.S. Government, including funding and the efforts of private landowners, state government, and not-for-profit organizations such as the Florida Trail Association.

⁶ s. 260.0142(6), F.S.

- The Legislature recognizes the significant economic benefit of natural-resource-based recreation and the contributions to the state's economy that arise from the creation and completion of the trail.
- To encourage all state, regional, and local agencies who acquire lands to include in their land-buying efforts the acquisition of sufficient legal interest in lands over which the trail passes to ensure its continued existence in a permanent location.
- Officially recognize the route of the trail for establishment and acquisition purposes as determined by the U.S.D.A. Forest Service assisted by the Florida Trail Association in their publication entitled "Preferred Routing for the FNST."
- Encourage state public land-buying agencies to consider the trail a single project with multiple phases for the purpose of listing and acquisition with the assistance of the Florida Trail Association and the Office of Greenways and Trails.
- Give positive consideration to the inclusion of private funds to supplement the state's contribution in its efforts to acquire fee or less-than-fee interests in lands that contain portions of the trail.
- Encourage private landowners to continue to allow the use of their properties for trail purposes through existing and future incentives and liability protection.
- Encourage state and local agencies that are responsible for economic and ecotourism development to recognize the importance of the trail in bringing nature-based tourism to many local communities along the trail route and to support acquisition and development activities for completion of the trail in a permanent location in their communities.

The bill amends section 260.0125, F.S., to provide liability protection for a person who owns or operates and charges a fee for an off-highway vehicle facility that has been recommended by the Off-Highway Vehicle Recreation Advisory Committee for designation as part of the state trail system and is open to the public. The bill provides that DEP will only be notifying "private landowners" by certified mail regarding intent to designate their property as part of the system of greenways and trails.

The bill provides for technical definition changes in section 260.013, F.S., and defines "Office " to mean specifically the Office of Greenways and Trails of the DEP.

The member term limits for all appointees of the Florida Greenways and Trail Council is limited to 2 years unless otherwise specified. The bill inserts a provision that allows off-highway-vehicles users a seat on the Greenways and Trail Council. The appointees of the Governor, the President of the Senate, and the Speaker of the House of Representatives may be appointed for no more than four consecutive terms. The representatives of the water management districts, regional planning councils, and local governments may be reappointed for no more than two consecutive terms. All other appointees will serve until replaced. Specifically as it relates to regional planning councils, membership on the council will rotate among the seven councils and the councils will determine the order of rotation. The bill provides that the council may not accept gifts, grants, or other aid from the U.S. Government or any person or corporation. The duties of the council are amended to more accurately reflect their activities.

Section 260.015, F.S., is amended to delete obsolete language regarding appraisals that are covered in other sections of the statute.

The bill amends specific mapping criteria in section 260.016, F.S., (DEP general powers and duties), relating to the map requirements to designate and evaluate greenways and trails. The Legislature as well as the DEP will be able to designate additions to the statewide saltwater circumnavigation trail.

The bill provides for water management district work plans to consider public access for projects with land acquisition components to the Florida National Scenic Trail. The Florida Communities Trust is to incorporate the inclusion of the Florida National Scenic Trail in its efforts to provide public access or recreational facilities.

The bill creates section 335.067, F.S., which establishes within the Department of Transportation the Conserve by Bicycle Program. The purpose of the Conserve by Bicycle Program includes the following:

- To save energy by increasing the number of miles ridden on bicycles reducing the usage of petroleum-based fuels.
- To increase efficiency of cycling as a transportation mode by improving interconnectivity.
- To reduce traffic congestion on existing roads.
- To provide recreational opportunities for the public.
- To provide healthy alternatives which should help reduce obesity and reduce long-term health costs.
- To provide a safe way for children to travel to schools by supporting the Safe Paths to Schools Program.

The bill provides for the Department of Transportation to conduct a Conserve by Bicycling study to be completed by July 1, 2005. The study is to develop measurable results and to help create standards that will show the value of bicycle use in saving transportation costs.

The bill identifies the Florida Mining-Recreation, Inc., as the nonprofit corporation formed by the Florida Wildlife Federation, Audubon Florida, and Rails-to-Trails Conservancy in partnership with the Florida Phosphate Council to create plans and assist in the development of public recreational opportunities on lands mined for phosphate in Florida. Florida Mining-Recreation, Inc., is considered a nonprofit corporation by all state and federal requirements. The definition of "Nonprofit organization" in section 380.503(5), F.S., is amended to include an organization which has a principal goal of establishing public recreational trails. The bill provides that any appropriations to the corporation be paid directly to the Florida Mining-Recreation, Inc., without the need for securing grants or advanced payment approval from the DEP or Chief Financial Officer regardless of previous agreements between the corporation and the DEP. The funds may be expended, but not limited to the following:

- The formation and management of the corporation.
- Securing the services of experts and consultants.
- Conducting audits.
- Developing engineering plans.
- Assisting in obtaining permits and approvals from governmental agencies.
- Other actions that further the goals of the corporation in creating plans and assisting in the development of recreational opportunities on lands mined for phosphate in Florida.

The corporation is not required to comply with state competitive bidding requirements for contracts under \$100,000 and is required to adopt a written policy describing how services for the corporation will be secured. The bill requires the corporation to conduct its operations in a nondiscriminatory manner and sets out the criteria for hiring that will assist in obtaining the highest quality at the lowest cost.

C. SECTION DIRECTORY:

Section 1. Provides that ch. 260, F.S., is renamed "Florida Greenways and Trails Act."

Section 2. Amends s. 260.011, F.S., to provide technical change for clarification.

Section 3. Amends s. 260.012, F.S., to provide technical changes to legislative intent and to encourage governmental entities to give enhanced consideration for acquisitions within its land buying process to assist in greenways and trail system development.

- Section 4. Creates s. 260.0125, F.S., to provide notice requirements to private land owners whose land would provide public access for greenways and trails; and provides liability protection for off-highway-vehicle facilities associated with state trails.
- Section 5. Amends s. 260.013, F.S., relating to definitions.
- Section 6. Amends s. 260.0141, F.S., to provide technical change for clarification.
- Section 7. Amends s. 260.0142, F.S., relating to the term limits and duties associated with members of the Florida Greenways and Trails Council.
- Section 8. Amends s. 260.015(1)(c), F.S., to provide technical change for clarification and appraisal requirements.
- Section 9. Amends s.260.016, F.S., to provide technical change for clarification and map requirements associated with greenways and trails and to allow the Legislature to participate in additions to the statewide saltwater circumnavigation trail.
- Section 10. Creates s. 335.067, F.S., relating to the creation of the Conserve by Bicycle Program and the provisions associated with the program.
- Section 11. Amends s. 373.199(4)(k), F.S., relating to the Florida Forever Water Management District Work Plan to include the identification of public access within the Florida National Scenic Trail.
- Section 12. Amends s. 378.036(6), F.S., relating to the creation of the nonprofit corporation known as the Florida Mining-Recreation, Inc., and its duties.
- Section 13. Amends 380.507(4), F.S., to provide a technical change to include the Florida National Scenic Trail.
- Section 14. Provides the act will take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect municipal or county government.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Line 302: change "land-"to "Land-"

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 17, 2004, the Committee on Natural Resources favorably adopted a "Strike All" amendment to HB 1179. This analysis has been revised to reflect this amendment.